

REGISTER



South Dakota Legislative Research Council

Volume 41

Monday, 8:00 a.m., February 23, 2015

NOTICE OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Revenue: Commission on Gaming: (February 20, 2015) is proposing to amend Gaming rules to add a free bonus feature to Buster Blackjack; clarify the rules of the game of War blackjack; provide for consistency among progressive games for Three-card poker, Let it ride and let it ride bonus including three card bonus optional side bet or progressive optional side bet, Caribbean stud poker, Four-Card poker, Texas Hold'em Bonus poker, Mississippi Stud, and Ultimate Texas Hold'em; and add an optional four card bet to Silverado Stud poker. The general authority for these rules, as cited by the commission, is SDCL §§ 42-7B-4, 42-7B-7, and 42-7B-11.

A public hearing will be held in City Hall, 102 Sherman Street, Deadwood, South Dakota, on March 18, 2015, at 9:00 a.m. MT. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Commission on Gaming, 221 West Capitol Avenue, Suite 101, c/o 1320 East Sioux Avenue, Pierre, South Dakota 57501-3100. Materials sent by mail must reach the Commission on Gaming by March 16, 2015, to be considered. However, the Commission requests that all written comments be received by March 13, 2015, to allow for adequate consideration prior to the hearing. The text of the rules is also available at <http://rules.sd.gov/>. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-6050 or (605) 578-3074 at least 48 hours before the

hearing.

Department of Environment and Natural Resources: Board of Water and Natural Resources: (February 20, 2015) intends to amend Consolidated water facilities construction program rules to increase the amount in the definition of "Minimum established rates" for water and wastewater users in an incorporated municipality or sanitary district, remove application restrictions that prohibit a project from including preliminary design costs in the total project cost, remove the requirements of applications to include the status of permits, required lands, easements and right of way, and provide a time length for the applicant to correct the identified deficiencies; amend State water pollution control revolving fund program rules to update the definition of "Act", revise the definition of "Interim financing" from three years to five years, establish a definition for "Median household income" and source for that information, increase the amount in the definition of "Minimum established rates" for wastewater users in an incorporated municipality or sanitary district, establish a definition for "Unemployment rate" and the source for that information, revise the definition of "wastewater treatment works", repeal the "Green infrastructure priority points" section and remove references to this section, revise the criteria for principal forgiveness eligibility, establish affordability criteria to receive principal forgiveness, revise required information to be submitted as part of the application for funding, add a section reference, and extend the duration of assistance for interim financing to five years and minor grammatical changes; amend Solid waste management

programs rules to change the requirements of documents that must be submitted as a part of the application, provide a time length for the applicant to correct the identified deficiencies, and repeal a duplicate section; and amend Drinking water state revolving fund program rules to update the definition of "Act", increase the amount in the definition of "Disadvantaged community" for water users in an incorporated municipality or sanitary district, revise the definition of "Interim financing" from three years to five years, update the definition for "Median household income" and the source for that information, increase the amount in the definition of "Minimum established rates" for water users in an incorporated municipality or sanitary district, repeal the "Green infrastructure priority points" section, and remove references to this section, adjust the affordability priority point criteria, revise required information to be submitted as part of the application for funding, and extend the duration of assistance for interim financing to five years, and provide for financing to increase from 20 years to up to 30 years as permitted by the Act. The general authority for these rules, as cited by the department, is SDCL §§ 46A-1-60.1, 46A-1-60.2, 46A-1-60.3, 46A-1-65, and 46A-1-84.

A public hearing will be held in the Floyd Matthew Training, Joe Foss Building, 523 East Capitol, Pierre, South Dakota, on March 26, 2015, at 1:00 p.m. CST. Copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Environment and Natural Resources, Division of Financial and Technical Assistance, 523 East Capitol Avenue, Pierre, South Dakota 57501. Copies may also be accessed on the department's web page at <http://denr.sd.gov/public/default.aspx> or at the <https://rules.sd.gov> website. Written comments must reach the Board of Water and Natural Resources by March 25, 2015, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make

arrangements are asked to call (605) 773-4216 at least 48 hours before the hearing.

NOTICE:

The **Department of Social Services** has published a Home and Community Based Services Statewide Transition Plan pursuant to the federal requirements of 42 CFR 441.301. The transition plan contains a description of how South Dakota Home and Community Based Services settings will come into compliance with the Centers for Medicare and Medicaid Services (CMS) final rule published on January 16, 2014. The Transition Plan is available on the Department's website at <http://dss.sd.gov/medicaid/hcbs.aspx>. The transition plan will be open for public comment from February 2, 2015 to March 4, 2015. Comments may be made by e-mail to hcbs@state.sd.us. Comments will also be accepted by mail or phone. Written requests for a copy of the transition plan, and corresponding comments, may be sent to Division of Medical Services, Attn: HCBS Transition Plan, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501-2291.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Carl Anderson, Aberdeen, was reappointed on February 4, 2015, to the **South Dakota State Railroad Board**, effective July 1, 2014, and shall continue until October 30, 2017.

Duane Buckmeier, Prairie City, was appointed on February 4, 2015, to the **South Dakota Weed and Pest Control Commission**, to replace Dale Patterson, effective immediately and shall continue until December 31, 2018.

Jeffery D. Burket, Spearfish, was appointed on February 4, 2015, to the **South Dakota State Railroad Board**, effective July 1, 2014, and shall continue until October 30, 2017.

Jerry Cope, Rapid City, was appointed on February 4, 2015, to the **South Dakota State Railroad Board**, effective July 1, 2014, and shall continue until October 30, 2016.

Sheldon E. Cotton, Volga, was appointed on February 4, 2015, to the **South Dakota State Railroad Board**, effective July 1, 2014, and shall continue until October 30, 2015.

Gary Doering, Cavour, was reappointed on February 4, 2015, to the **South Dakota State Railroad Board**, effective July 31, 2014, and shall continue until October 30, 2015.

Brent E. Dykstra, Ft. Pierre, was reappointed on February 4, 2015, to the **South Dakota Lottery Commission**, effective immediately and shall continue until January 15, 2018.

Craig Magedanz, Clear Lake, was appointed on February 4, 2015, to the **South Dakota Weed and Pest Control Commission**, to replace Winfred Bauer, effective immediately and shall continue until December 31, 2018.

Harlan J. Quenzer, Mitchell, was appointed on February 4, 2015, to the **South Dakota State Railroad Board**, effective July 1, 2014, and shall continue until October 30, 2016.

Todd Yeaton, Kimball, was reappointed on February 4, 2015, to the **South Dakota State Railroad Board**, effective July 1, 2014, and shall continue until October 30, 2017.

Sheryl M. Cronan, Box Elder, was appointed on February 10, 2015, to the **State Council for Educational Opportunity for Military Children**, to replace Chad Canaan, effective immediately.

Ty Neuman, Ellsworth AFB, was appointed on February 10, 2015, to the **State Council for Educational Opportunity for Military Children**, to replace Colonel Steven Hiss, effective immediately.

Note: A copy of the rules may be obtained directly from the above agencies or at <https://rules.sd.gov>. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

2-26-2015	Transportation	Amend a Speed Zone rule to change a reference to SD Highway 264 to Aspen Boulevard in two limited speed zone segments on SD Highway 11 in Brandon; 41 SDR 123; February 9, 2015.
3-5-2015	Game, Fish and Parks	Amend a Use of Parks and Public Lands rule to expand the area within North Point Recreation Area in Charles Mix County that is restricted to shot shell and archery hunting to include the area situated west of 382 nd Avenue and north of 297 th Street, and situated south of 297 th Street and west of Prairie Dog Bay; amend a Public Water Zoning rule to amend the existing "no wake zone" and designate a "public swimming zone" at Rocky Point

		<p>Recreation Area on the Belle Fourche Reservoir in Butte County; amend a Refuges rule to eliminate the Cottonwood Lake State Waterfowl Refuge in Sully County; and amend Aquatic Nuisance Species rules to change all references in current rule from "aquatic nuisance species" to "aquatic invasive species", add "Common Reed, <i>Phragmites australis</i>" to the list of invasive plants, allow law enforcement officers to require the removal of vegetation and all aquatic invasive species from a boat, and to require that all drain plugs and related devices be opened or removed from all boats when being transported with exceptions for emergency response boats and vehicles and other boats while on lands owned, leased, controlled, or managed by the department or other government entities adjacent to the water, authorize the department secretary to declare a waterbody an aquatic invasive species containment water, describe the conditions that would necessitate this action, and outline department responsibilities, and prohibit the transportation of fish and aquatic bait in water away from any aquatic invasive species containment water body except when on lands owned, leased, controlled, or managed by the department or other government entities, and allow no more than five gallons of vegetation-free water to be possessed for transport of bait and fish away from water bodies not designated as aquatic invasive species containment waters; 41 SDR 125; February 17, 2015.</p>
3-9-2015	Revenue: Division of Business Tax	<p>Amend rules to clarify the definition of the term "receive," source attorney services at the office of the attorney who is performing such services, and clarify the taxability of nonresident attorney services used in South Dakota; 41 SDR 126, February 17, 2015.</p>
3-11-2015	Health: Board of Medical and Osteopathic Examiners	<p>Adopt rules to establish what constitutes a conflict of interest and a potential conflict of interest related to hearings held by the board; establish best practices related to prescribing controlled substances; and add a code of ethics to existing rules; 41 SDR 126, February 17, 2015.</p>

3-18-2015	Revenue: Commission on Gaming	Amend Gaming rules to add a free bonus feature to Buster Blackjack; clarify the rules of the game of War blackjack; provide for consistency among progressive games for Three-card poker, Let it ride and let it ride bonus including three card bonus optional side bet or progressive optional side bet, Caribbean stud poker, Four-Card poker, Texas Hold'em Bonus poker, Mississippi Stud, and Ultimate Texas Hold'em; and add an optional four card bet to Silverado Stud poker; 41 SDR 131, February 23, 2015.
3-26-2015	Environment and Natural Resources: Board of Water and Natural Resources	amend Consolidated water facilities construction program rules to increase the amount in the definition of "Minimum established rates" for water and wastewater users in an incorporated municipality or sanitary district, remove application restrictions that prohibit a project from including preliminary design costs in the total project cost, remove the requirements of applications to include the status of permits, required lands, easements and right of way, and provide a time length for the applicant to correct the identified deficiencies; amend State water pollution control revolving fund program rules to update the definition of "Act", revise the definition of "Interim financing" from three years to five years, establish a definition for "Median household income" and source for that information, increase the amount in the definition of "Minimum established rates" for wastewater users in an incorporated municipality or sanitary district, establish a definition for "Unemployment rate" and the source for that information, revise the definition of "wastewater treatment works", repeal the "Green infrastructure priority points" section and remove references to this section, revise the criteria for principal forgiveness eligibility, establish affordability criteria to receive principal forgiveness, revise required information to be submitted as part of the application for funding, add a section reference, and extend the duration of assistance for interim financing to five years and minor grammatical changes; amend Solid waste management programs rules to change the

		requirements of documents that must be submitted as a part of the application, provide a time length for the applicant to correct the identified deficiencies, and repeal a duplicate section; and amend Drinking water state revolving fund program rules to update the definition of "Act", increase the amount in the definition of "Disadvantaged community" for water users in an incorporated municipality or sanitary district, revise the definition of "Interim financing" from three years to five years, update the definition for "Median household income" and the source for that information, increase the amount in the definition of "Minimum established rates" for water users in an incorporated municipality or sanitary district, repeal the "Green infrastructure priority points" section, and remove references to this section, adjust the affordability priority point criteria, revise required information to be submitted as part of the application for funding, and extend the duration of assistance for interim financing to five years, and provide for financing to increase from 20 years to up to 30 years as permitted by the Act; 41 SDR 131, February 23, 2015.
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RULES REVIEW COMMITTEE MEETINGS

The Interim Rules Review Committee will have an informal meeting near the close of the Ninetieth Legislative Session to set the tentative meeting schedule for the 2015 interim. Watch for a notice of this informal meeting on the LRC website and at the Capitol.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the LRC website at <http://legis.sd.gov/Rules/RulesManual.aspx>.